

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON**

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:23-cr-00188-3

JONATHAN WALTERS

**JUNE 6, 2024, SUPPLEMENTAL DISCOVERY RESPONSE OF THE UNITED
STATES OF AMERICA TO DEFENDANT'S STANDARD DISCOVERY REQUESTS**

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, Rule 16.1(a) of the Local Rules of Criminal Procedure, the Arraignment Order and Standard Discovery Request entered by the Court in this case on December 5, 2023, the United States of America, by counsel, herewith supplements its response to each of defendant's Standard Discovery Requests as follows:

The United States hereby provides discovery, subject to the Protective Orders issued by the Court in this case on January 11, 2024, and May 8, 2024. Consistent with its obligation, the United States will continue to supplement discovery as appropriate.

The government has produced discovery to the defendant on December 19, 2023, January 22, 2024, and May 10, 2024. With each of these productions, the government has provided Bates-stamped materials, a discovery letters, joint indices, and individual indices, when necessary.

Request A: Disclose to defendant the substance of any relevant oral statement made by defendant, whether before or after arrest, in response to interrogation by a person the defendant knew was a government agent if the government intends to use the statement at trial. [Fed. R. Crim. P. 16(a)(1)(A)]

Response: The materials described in this Response have been previously disclosed to the defendant via encrypted zip files delivered by FedEx with detailed Bates Indices as previously described in the United States' Response to Defendant's Standard Discovery Request (U.S.A. Resp. to Standard Disc. Req. No. 103). Copies of all the defendant's statements in its possession, include, but are not limited to, statements made to the West Virginia State Troopers, West Virginia

Division of Corrections and Rehabilitations Criminal Investigation Division, Federal Bureau of Investigation, incident reports, and other witnesses. Additionally, the United States has produced records in its possession on three separate occasions: December 19, 2023, January 22, 2024, and May 10, 2024, which include Bates Number US000000 – US0008957.

Request B: Disclose to defendant and make available for inspection, copying or photographing, all of the following:

(i) Any relevant written or recorded statement by the defendant if the statement is within the government's possession, custody, or control; and the attorney for the government knows--or through due diligence could know--that the statement exists. [Fed. R. Crim. P. 16(a)(1)(B)(i)]

Response: See Response to Request A.

(ii) The portion of any written record containing the substance of any relevant oral statement made before or after arrest if the defendant made the statement in response to interrogation by a person the defendant knew was a government agent. [Fed. R. Crim. P. 16(a)(1)(B)(ii)]

Response: See response to Requests A.

(iii) The defendant's recorded testimony before a grand jury relating to the charged offense. [Fed. R. Crim. P. 16(a)(1)(B)(iii)]

Response: Defendant did not testify before the grand jury.

Request C: Where the defendant is an organization, e.g., a corporation, partnership, association or labor union, disclose to the defendant any statement described in Fed. R. Crim. P. 16(a)(1)(A) and (B), if the government contends that the person making the statement (i) was legally able to bind the defendant regarding the subject of the statement because of that person's position as the defendant's director, officer, employee, or agent; or (ii) was personally involved in the alleged conduct constituting the offense and was legally capable to bind the defendant regarding that conduct because of that person's position as the defendant's director, officer, employee, or agent. [Fed. R. Crim. P. 16(a)(1)(C)]

Response: Not applicable.

Request D: Furnish the defendant with a copy of defendant's prior criminal record that is within the government's possession, custody, or control if the attorney for the government knows--or through due diligence could know--that the record exists. [Fed. R. Crim. P. 16(a)(1)(D)]

Response: The United States is not aware of any prior criminal convictions for the defendant.

Request E: Permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, building or places, or copies or portions of any of those items, if the item is within the government's possession, custody or control, and (i) the item is material to preparing the defense; (ii) the government intends to use the item in its case-in-chief at trial; or (iii) the item was obtained from or belongs to defendant. [Fed. R. Crim. P. 16(a)(1)(E)]

Response: The United States has provided the defendant through counsel copies of materials described in this Response on three separate occasions, December 19, 2023 (Bates US0000001-US0003852), January 22, 2024 (Bates US0003853 - US0008839), and May 10, 2024 (Bates US0008840 – US0008957) and the itemized details of the productions were provided in indices for productions one through three. The government will continue to produce any additional materials in line with its obligations.

Request F: Permit the defendant to inspect and to copy or photograph the results or reports of any physical or mental examination and of any scientific tests or experiment if (i) the item is within the government's possession, custody, or control; (ii) the attorney for the government knows--or through due diligence could know--that the item exists; and (iii) the item is material to preparing the defense or the government intends to use the item in its case-in-chief at trial. [Fed. R. Crim. P. 16(a)(1)(F)]

Response: The United States has provided the defendant through counsel copies of responsive records in its possession on three separate occasions, December 19, 2023 (Bates US0000001-US0003852), January 22, 2024 (Bates US0003853 - US0008839), and May 10, 2024 (Bates US0008840 – US0008957) and the itemized details of the productions were provided in indices for productions one through three. The government will continue to produce any additional materials in line with its obligations.

Request G: For any testimony the government intends to use under Rules 702, 703 or 705 of the Federal Rules of Evidence during its case-in-chief, or during rebuttal to counter testimony that the defendant has timely disclosed under reciprocal discovery, give to the defendant, in writing, the following information:

- (i) a complete statement of all opinions that the government will elicit from the witness in its case-in-chief, or during its rebuttal to counter testimony that the defendant has timely disclosed under reciprocal discovery;
- (ii) the bases and reasons for them;
- (iii) the witness's qualifications, including a list of all publications authored in the previous 10 years; and
- (iv) a list of all other cases in which, during the previous 4 years, the witness has testified as an expert at trial or by deposition.

If the government requests discovery under the second bullet point in Federal Rules of Criminal Procedure 16(b)(1)(C)(i) and the defendant complies, the government must, at the defendant's request, disclose to the defendant, in writing, the information listed above in (i) through (iv) for testimony that the government intends to use at trial under Rules 702, 703, or 705 of the Federal Rules of Evidence on the issue of the defendant's mental condition.

The witness must approve and sign the disclosure, unless the government states in the disclosure why it could not obtain the witness's signature through reasonable efforts, or the government has previously provided a report, signed by the witness that contains all the opinions and the bases and reasons for them.

[Fed. R. Crim. P. 16(a)(1)(G)]

Response: The United States has informed the defendant of its intent to call experts in its May 10, 2024, Production 3 Discovery Letter. Additionally, the government has provided the expert statements and related materials pursuant to this request and Rule 16. The government reserves the right to provide additional expert notices to the defense.

Request H: Disclose to defendant all evidence favorable to defendant, including impeachment evidence, and allow defendant to inspect, copy or photograph such evidence.

Response: To the extent that it is aware of any such evidence, the United States has provided the defendant through counsel copies of such evidence in its possession on three separate occasions, December 19, 2023 (Bates US0000001-US0003852), January 22, 2024 (Bates US0003853 - US0008839), and May 10, 2024 (US0008840 – US0008957). The itemized details of the productions were provided in indices for productions one through three. The government will continue to produce any additional information and evidence in line with its duties and obligations, consistent with the Court's Arraignment Order and Standard Discovery Requests.

Request I: Notify defendant of all evidence the government intends to introduce pursuant to Rule 404(b) of the Federal Rules of Evidence.

Response: The United States has informed the defendant of its intent to introduce Rule 404(b) evidence in its May 10, 2024, Production 3 Discovery Letter.

Request J: Disclose to defendant all reports of government "mail cover," insofar as the same affects the government's case against the defendant or any alleged aiders and abettors or co-conspirators.

Response: None.

Request K: Disclose to defendant any matter as to which the government will seek judicial notice.

Response: The United States will seek judicial notice that Beaver, Raleigh County, West Virginia is within the Southern District of West Virginia.

Request L: Disclose to defendant and make available for inspection, copying or photographing, the results of any interception of a wire, oral or electronic communication in the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence could become known, to the attorney for the government, which contains any relevant statement made by the defendant or which is material to the preparation of the defendant's defense or which is intended for use by the government as evidence in its case-in-chief at the trial. For each such interception, disclose (1) any application for an order authorizing the interception of a wire or oral communication; (2) any affidavits filed in support thereof; and (3) any court order authorizing such interception.

Response: Not applicable.

Request M: Provide notice to defendant of the government's intention to use evidence pursuant to Rule 12(b)(4)(B) of the Federal Rules of Criminal Procedure.

Response: The United States reserves the right to use all information and evidence disclosed herein or made available for inspection and copying pursuant to this Response and such information and evidence which may be discovered and finally provided to defendant.

Any discovery provided that is not mandated by Court order, the Federal Rules of Criminal Procedure, federal statute or federal case law, is provided voluntarily as a matter of discretion solely to expedite and facilitate litigation of this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing “JUNE 6, 2024, SUPPLEMENTAL RESPONSE OF THE UNITED STATES OF AMERICA TO DEFENDANT’S STANDARD DISCOVERY REQUESTS” has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing this 6th day of June 2024 to:

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